

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Revision Petitions – Prakasam District – Revision Petition filed by Sri S.Suryanarayana against the Proceedings No.BCW1/36/2003, dated: 06-10-2008 of the Commissioner (Appeals), O/o the Chief Commissioner of Land Administration, AP, Hyderabad – Revision Petition – Dismissed – Orders – Issued.

REVENUE (ASSIGNMENTS.VI) DEPARTMENT

G.O.Ms.No.594

Dated:01-10-2012
Read the following:

1. Revision Petition filed by Sri S.Suryanarayana, dated: 06-04-2009.
2. Government Memo.No.24270/Assn.VI(1)/2009-1, dated:29-06-2009.
3. From the Collector & District Magistrate, Prakasam District, Lr.No.Rc.E3/2309-2009, dated: 09-10-2009.
4. Government Memo.No.24270/Assn.VI/2009, dated:07-11-2009.
5. From the Special Chief Secretary & Chief Commissioner of Land Administration, AP, Hyderabad, Letter No. BCW1/248/2009, dated: 09-12-2009.
6. Government Memo.No.14636/Assn.VI/2009, dated: 30-04-2010.
7. Government Memo.No.14636/Assn.VI/2009, dated: 20-05-2010.
8. Government Memo.No.24270/Assn.VI(1)/2009-5, dated:07-04-2012.
9. Government Memo.No.24270/Assn.VI(1)/2009-6, dated:19-04-2012.
10. Government Memo.No.24270/Assn.VI(1)/2009-7, dated:26-04-2012.
11. Government Memo No.24270/Assn.VI(1)/2009-8, dated:18-08-2012.

ORDER:

Sri S.Suryanarayana, S/o. Sri Seshaiah, Ongole town has filed a Revision Petition before the Government vide his petition 1st read above against the orders of the Commissioner of Appeals, O/o the Chief Commissioner of Land Administration, A.P, Hyderabad, issued vide BCW1/36/2003, Dated: 06-10-2008, wherein the appeal filed by the petitioner against the orders passed by the Joint Collector, Prakasam, in D.Dis.E3/4987/94, dated.02-12-2002, was dismissed. The Revision Petitioner, Sri S.Suryanarayana had made Sri R.Venkateswarlu, Sri R.Srinivasulu, Sri R.Venkata Subba Rao and Sri R.Venkat Rao as respondents.

2. Originally, Sri Ramisetty Venkata Ramaiah was granted house site patta to an extent of 780 Sq.feet in TS No.1257/3 of Ongole town by the then Mandal Revenue Officer, Ongole, vide DK No.62/99, dated.14-02-1990 duly regularizing long standing encroachment. Aggrieved with the assignment, Sri S.Suryanarayana filed an appeal before the Joint Collector, Ongole, for cancellation of the patta on the ground that part of the site is being used for religious functions. The Joint Collector, Ongole, passed orders rejecting the appeal as it is not maintainable vide D.Dis.182/93, dated.31-03-1994. Aggrieved with the orders of the Joint Collector, Sri S.Suryanarayana filed a Revision Petition before the Chief Commissioner of Land Administration, A.P, Hyderabad. The CCLA, A.P, Hyderabad remanded the matter to the Joint Collector, Ongole for fresh enquiry duly giving opportunity to both parties vide proceedings No.BCW3/746/94, dated.04-11-1999. Accordingly, the Joint Collector, Prakasam, issued notices and heard both parties and dismissed the Revision Petition vide D.Dis.E3/4987/94, dated.02-12-2002. Aggrieved, the Revision Petitioner filed an appeal before the Chief Commissioner of Land Administration against the orders of the Joint Collector. The Chief Commissioner of Land Administration, A.P, Hyderabad, dismissed the Revision Petition vide BCW1/36/2003, dated.06-10-2008. Aggrieved by the orders of the Chief

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Commissioner of Land Administration, A.P, Hyderabad, the petitioner filed the present Revision Petition before the Government on the following grounds, among others:

- A. The Revision Petition filed by the petitioner aggrieved by the orders dated: 06-10-2008 made in BCW1/36/2003 on the file of the Commissioner (Appeals), O/o the Chief Commissioner of Land Administration, A.P, Hyderabad, which was received by him on 18-02-2009.
- B. That the orders of the Mandal Revenue Officer, Ongole, in granting assignment of 780 sft. of Government land in T.S.No.1257/3, Ward No.5, Block No.11 which is being used as a public religious place and as such the same cannot be assigned to the father of the Respondents and the same is liable to be set aside.
- C. That the Mandal Revenue Officer, Ongole, has not followed the procedure as contemplated under Board's Standing orders 21 para 11 before issuing the patta in his name and as such the same is liable to be set aside.
- D. That the Mandal Revenue Officer, Ongole, has not issued any notice before passing the orders and no enquiry was conducted and as such the same is liable to be set aside.
- E. That the Commissioner of Appeals/ Joint Collector failed to consider the Will dated: 22-01-1990 executed by the father of the Respondents in their favour bequeathing the house properties bearing No.50-1-19 to 27 to ten house portions and a tiled house with five portions bearing assessment No.14612, as such he was not a houseless and poor person on the date of assignment patta on 14-02-1990 and as such, on this ground alone the same is liable to be cancelled.
- F. That the Joint Collector, though considered only the assessment Nos. 19346, 19347, 19358 and 19359 but not the earlier ones and as such the same is liable to be cancelled.
- G. That the Mandal Revenue Officer, Ongole, has no power to grant assignment over and above Rs.10,000/- since the market value of the land assigned was at Rs.21,625/- in 1990 and as such the grant of patta through orders dated. 14-02-1990 is liable to be set aside and this aspect of the matter was completely overlooked by the lower authorities.
- H. That the Commissioner of Appeals/ Joint Collector failed to see the fact that the Respondents were not in occupation of the site prior to 1990 and no encroachers at all and did not pay encroachment fee or assessment at any time and as such the patta granted by the Mandal Revenue officer is liable to be cancelled on this ground alone.
- I. That the Commissioner of Appeals / Joint Collector failed to consider the third party affidavits filed by the Revision Petitioner and thus arrived at a wrong conclusion and as such the same is not sustainable in law.
- J. That the Mandal Revenue Officer/ Joint Collector and the Commissioner of Appeals have failed to see that the father of the Respondents was not eligible for assignment as he was not a landless or houseless poor person as on the date of grant i.e. 14-02-1990, therefore in this view of the matter, the orders passed by the lower authorities are not sustainable in law and liable to be set aside.

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- K. That the Respondents are trying to construct in the assigned plot, if the same is done by the Respondents, it would lead to multiplicity of litigation. As such, the Respondents may be restrained from raising any constructions in the assigned plot till the disposal of the Revision Petition. If the Respondents are not restrained, the petitioner will be put to irreparable loss and hardship.
- L. The Petitioner has therefore prayed that the Hon'ble authority may be pleased to restrain the Respondents from constructing any structures in the assigned plot admeasuring 780 sft of Government land in T.S.No.1257/3, Ward No.5, Block No.11, assigned to the father of the Respondents under proceedings dated:14-02-1990, till the disposal of the Revision Petition and pass such other order or orders as the Hon'ble Authority may deem fit and proper in the circumstances of the case.

3. The Revision Petition was admitted, records and remarks of the Collector and District Magistrate, Prakasam District, have been called for. Subsequently the Revision Petition was posted on 05-09-2012 for hearing. The advocates for the Revision Petitioner and the respondents were present. The Tahsildar, Ongole was present. After having heard the arguments and on perusal of records made available in the matter, it is observed that 21 gadies of private land relating to the respondent was acquired by the Government for providing road in the vicinity in T.S.No.705, 707 and 706 vide D.Dis.32987/57, dated: 24-10-1957. Since the disputed land was under the encroachment of the respondents for a long time, on compassionate ground the then Mandal Revenue Officer, Ongole, has issued a patta to the respondents without collecting any market value, as their land was taken for formation of road in the area. As per the report of the Collector there is no religious significance to this area, even though there is a temple in the area.

4. Without going further into the grounds of the Revision Petition, it is observed that the revision petitioner is in no way affected due to the above grant of house site patta to the respondent and as such the Revision Petitioner has no locus standi to file the revision petition. If he has any grievance, he may approach the competent authority for redressal.

5. In view of the above, it is found that there is no valid reason to interfere with the Proceedings No.BCW1/36/2003, dated:06-10-2008 of the Commissioner (Appeals), O/o the Chief Commissioner of Land Administration, AP, Hyderabad, and accordingly the Revision Petition filed is hereby dismissed.

6. The Collector & District Magistrate, Prakasam District shall take necessary action in the matter.

7. The records received in the reference 3rd read above are returned herewith to the Collector & District Magistrate, Prakasam District.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ANIL CHANDRA PUNETHA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, Prakasam District,
Ongole. (w.e. original records) (by RPAD)
Sri S.Suryanarayana, S/o.Seshaiah,
R/o.Ongole Town, Prakasam District.
Through: the Tahsildar, Ongole Mandal. Prakasam District.

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Sri R.Venkateswarlu, R/o.Thurupupalem, Near Sivalayam,
Ongole, Prakasam District.
Through :The Tahsildar, Ongole Mandal. Prakasam District.
Sri R.Srinivasulu, R/o.Thurupupalem, Near Sivalayam,
Ongole, Prakasam District
Through :The Tahsildar, Ongole Mandal. Prakasam District.
Sri R.Venkata Subba Rao, R/o.Thurupupalem, Near Sivalayam,
Ongole, Prakasam District.
Through :The Tahsildar, Ongole Mandal. Prakasam District.
Sri R.Venkat Rao, R/o.Thurupupalem, Near Sivalayam,
Ongole, Prakasam District.
Through :The Tahsildar, Ongole Mandal. Prakasam District.
The Commissioner (Appeals),
O/o the Chief Commissioner of Land Administration,
AP, Hyderabad.
The Collector and District Magistrate, Prakasam District, Ongole,
The Joint Collector, Prakasam District, Ongole,
The Revenue Divisional Officer, Prakasam District, Ongole,
The Tahsildar, Ongole Mandal, Prakasam District.

Copy to :

Sri Mr. R. Prasad Reddy, Advocate,
Qtr.No.179, Malakpet Colony,
Hyderabad, 500 036.
Sri S.V Muni Reddy, Advocate, H.No.3-4-813/1, 2&3,
Flat No.102, SVC Residency, Street No.1, Barkathpura,
Hyderabad -27,
The P.S to Principal Secretary to Government,
Revenue Department.
Sf/Sc.

// forwarded by order //

SECTION OFFICER